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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,374	11/06/2003	Masahiro Ikeda	1508.63599	8451

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EXAMINER

NGO, HUYEN LE

ART UNIT PAPER NUMBER

2871

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/702,374

Applicant(s)

IKEDA ET AL.

Examiner

Julie-Huyen L. Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/26/2004.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.  
 4a) Of the above claim(s) 1-7 and 12-39 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 8-11 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/6/03 & 10/22/03.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species IV (Figs. 18, 22 and 24, claims 8-11) in the reply filed on July 26, 2004 is acknowledged.

Claims 1-7 and 12-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 8-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6671025 in view of Shoichi et al. (JP10039318) provided in applicants' IDS.

Claims 8-11 of instant application participate with all limitations in claims 1-2 of US6671025 except for a cell-thickness adjusting layer.

Shoichi et al. teach (Fig. 1) forming a liquid crystal display element with a cell-thickness for adjusting the cell layer thickness (projecting member 5).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify a color filter substrate as disclosed in US6671025 with a cell-thickness for adjusting the cell layer thickness, as taught by Shoichi et al.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shoichi et al. (JP10039318) provided in applicants' IDS in view of Yamada et al. (US6067141).

Shoichi et al. teach (Figs. 1-6) forming a color filter substrate comprising:

- a plate 1;
- red, green and blue color filters formed on predetermined regions of the plate;
- a light shielding film inherently formed by overlapping at least two color filters of these color filters to be arranged on predetermined regions of the plate;
- an electrode (counter electrode 18) for covering at least the color filters;
- a cell thickness adjusting layer (projection member 5) formed selectively over the light shielding film;

- a projection pattern 4 formed of insulating material over the electrode and the cell thickness adjusting layer.

However, Shoichi et al. fail to disclose a color filter substrate with a vertical alignment film for covering the electrode and at least the projection pattern on the electrode.

Yamada et al. teach (Fig. 9 and col. 9. lines 3-7) forming a color filter substrate 14 with a vertical alignment film 15a for covering the electrode and at least the projection pattern on the electrode for exhibiting excellent all-direction viewing angle characteristic, free from an uneven display in the display, and high contrast.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify a color filter substrate as Shoichi et al. disclosed with a vertical alignment film 15a for covering the electrode and at least the projection pattern on the electrode for exhibiting excellent all-direction viewing angle characteristic, free from an uneven display in the display, and high contrast (col. 9. lines 3-7).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Fujioka et al. (US 20020075429 A1) disclose a liquid crystal display element includes an active matrix substrate; a color filter substrate, which the light-blocking

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member is provided in a region having an area wider than a region where the plurality of color layers formed in the frame region are provided.

Nakamura et al. (US 6582862 B1) disclose a liquid crystal display panel with an alignment film for covering the electrode and at least the projection pattern on the electrode.

Yamada et al. (US 5583675 A) disclose a liquid crystal display device includes a pair of substrates opposed to each other; a plurality of pixels for realizing display; and a liquid crystal layer interposed between the substrates and including a liquid crystal region corresponding to each of the pixels, the liquid crystal regions being surrounded by a polymer wall.

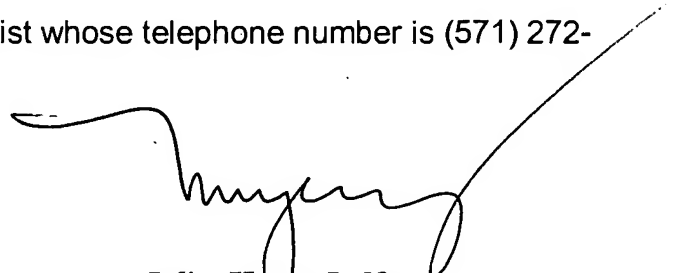
***Contact Information***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Julie-Huyen L. Ngo whose telephone number is (571) 272-2295. The Examiner can normally be reached on T-Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Robert H. Kim can be reached at (571) 272-2293.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

April 1, 2005



***Julie-Huyen L. Ngo***  
***Patent Examiner***  
***Art Unit 2871***